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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,392	06/20/2007	Klaus Worgull	3564	1516
278	7590	02/02/2009		
MICHAEL J. STRIKER 103 EAST NECK ROAD HUNTINGTON, NY 11743			EXAMINER HALL, COREY JOHN	
			ART UNIT	PAPER NUMBER
			4118	
			MAIL DATE	DELIVERY MODE
			02/02/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/563,392

**Applicant(s)**

WORGULL ET AL.

**Examiner**

COREY HALL

**Art Unit**

4118

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-12 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 05 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 1/05/2006  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Thaler et al. (US Patent No. 5,727,331).

4. Regarding claims 1, and 5-9, Thaler et al. discloses a hand hair dryer 30 (figure 1, column 2, line 34) having an electric fan (column 2, line 37) and an electric heater (column 2, line 38), located in line with it, for generating an air stream from a barrel portion (column 2, lines 46-48), in which the fan is located in a housing portion and the heater is located inside the barrel portion (figure 1), that on the housing portion, a first handle grip 11 (figure 1) that has operator control elements 20 (figure 1) is located at an angle of approximately 90.degree. (figure 1) to the barrel portion (figure 1), characterized in that the barrel portion is embodied as a second handle grip 10 (figure 1), the second handle grip 10 (figure 1 and figure 4) being shaped cylindrically, the first and second handle grips are each provided with a nonslip surface 23, 12 (figure 1), a first cold air switch 120 (figure 5, column 1, lines 63-65) located on the first handle grip 111 (figure 5), and a second cold air switch 127 (figure 5) is located on the second handle grip 110 (figure 5), and a commonly actuatable first cold air combination switch being a pushbutton switch 20 (figure 1) located between the first handle grip 11 (figure 1) and the second handle grip 10 (figure 1).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler et al. (US Patent No. 5,727,331) in view of Wilson (US Patent No. 4,629,864).

8. In regards to claims 2-4, Thaler et al. discloses the claimed invention, except for the second handle grip being embodied as heat-insulated, the barrel portion being embodied as heat-insulated from the outside and the second handle grip and the barrel portion being embodied as heat-insulated from the outside. However, Berryman teaches an outer tubular member 7 (figure 4) being embodied as heat-insulated 16 (figure 4, column 2, lines 9-13) in order to make it much cooler for an operator to touch (column 2, line 13). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler et al. reference, to include the second handle grip being embodied as heat-insulated, the barrel portion being embodied as heat-insulated from the outside and the second handle grip and the barrel

portion being embodied as heat-insulated from the outside, as suggested and taught by Berryman, for the purpose of making it much cooler for an operator to touch.

9. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler et al. (US Patent No. 5,727,331) in view of Berryman (US Patent No. 3,612,824).

In regards to claims 10 and 11, Thaler et al. discloses the claimed invention, except for a second cold air combination switch being a one-legged toggle switch or a third cold air combination switch being a two-legged toggle switch. However, Berryman teaches a one-legged toggle switch 17 (figure 1) in order to control the cold air (column 2, lines 25-26). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler et al. reference, to include a second cold air combination switch being a one-legged toggle switch, as suggested and taught by Berryman, for the purpose of controlling the cold air. Thaler and Berryman disclose the claimed invention except for a third cold air combination switch being a two-legged toggle switch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a two-legged toggle switch rather than a one-legged toggle switch, for the purpose of controlling the toggle switch from different angles, since It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. In *re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

10. In regards to claim 12, Thaler et al. discloses the claimed invention, except for a centrally located warm-air conduit and a coaxial cold-air conduit being provided in the barrel portion, and the central warm-air conduit being formed by a hollow-cylindrical barrel, in which the heater is located; that the coaxial cold-air conduit being formed by the barrel portion and the central

warm-air conduit; that the central warm-air conduit and the coaxial cold-air conduit are acted upon by a cold air stream of the fan, and by means of the heater, a warm air stream outlet is effected out of the central warm-air conduit, and a cold air stream is effected from the coaxial cold-air conduit. However, Berryman teaches a centrally located warm-air conduit 77 (figure 3) and a coaxial cold-air conduit 74 (figure 3) being provided in the barrel portion 73 (figure 3), and the central warm-air conduit 77 (figure 3) being formed by a hollow-cylindrical barrel 71 (figure 3), in which the heater 108 (figure 3) is located; that the coaxial cold-air conduit 74 (figure 3) being formed by the barrel portion 73 (figure 3) and the central warm-air conduit 77 (figure 3); that the central warm-air conduit 77 (figure 3) and the coaxial cold-air conduit 74 (figure 3) are acted upon by a cold air stream of the fan, and by means of the heater 108 (figure 3), a warm air stream outlet is effected out of the central warm-air conduit 77 (figure 3), and a cold air stream is effected from the coaxial cold-air conduit 74 (figure 3) in order to provide an air blower in which the temperature of the discharging air can be controlled over a wide temperature range (column 1, lines 26-27). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler et al. reference, to include a centrally located warm-air conduit and a coaxial cold-air conduit being provided in the barrel portion, and the central warm-air conduit being formed by a hollow-cylindrical barrel, in which the heater is located; that the coaxial cold-air conduit being formed by the barrel portion and the central warm-air conduit; that the central warm-air conduit and the coaxial cold-air conduit are acted upon by a cold air stream of the fan, and by means of the heater, a warm air stream outlet is effected out of the central warm-air conduit, and a cold air stream is effected from the coaxial cold-air conduit, as suggested and taught by Berryman, for the purpose of providing an air

blower in which the temperature of the discharging air can be controlled over a wide temperature range.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COREY HALL whose telephone number is (571)270-7833. The examiner can normally be reached on Monday - Friday, 9AM to 5PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Quang Thanh can be reached on (571)272-4982. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. H./  
Examiner, Art Unit 4118

/Quang D. Thanh/  
Supervisory Patent Examiner, Art Unit  
4118